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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 594.

SOUTHERN RAILWAY COMPANY, APPELLANT,

vs.

FRANKLIN McNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGFIELD, AND THE GREENSBORO ICE AND COAL COMPANY.

CROSS-APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF NORTH CAROLINA.

(Vide No. 370.)

FILED FEBRUARY 12, 1906.

(20,096.)

(20,096.)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1905.

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SOUTHERN RAILWAY COMPANY, APPELLANT,

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEBRUARY 13, 1906.

1 *Transcript of Record.*

THE UNITED STATES OF AMERICA,
Eastern District of North Carolina.

In the Circuit Court.

At the Circuit Court of the United States for the Eastern District of North Carolina, begun, and held in the City of Raleigh, on the first Monday in December it being the fifth day of the same month, in the year of our Lord one thousand nine hundred and four.

Present: The Honorable Thomas R. Purnell, Judge of the Eastern District of North Carolina.

Among others the following proceedings were had, to wit:—

SOUTHERN RAILWAY CO., Complainants,
vs.
FRANKLIN MCNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGfield, and The Greensboro Ice and Coal Company, a Corporation, Defendants.

Final Decree.

Filed April 10th, 1905.

(See Transcript filed by Defendant-.)

2 *Petition for Appeal.*

Filed Jan'y 31st, 1906.

In the Circuit Court of the United States for the Eastern District of North Carolina, at Raleigh.

SOUTHERN RAILWAY COMPANY, a Corporation, Complainant,
vs.
FRANKLIN MCNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGfield, and The Greensboro Ice and Coal Company, a Corporation, Defendants.

Petition for Appeal.

The above named plaintiff, conceiving itsself aggrieved by the decree made and entered on the 10th day of April 1905, in the above entitled cause, does hereby appeal from said order and decree to the Supreme Court of the United States, for the reasons specified in the assignment of errors which is filed herewith, and prays that this appeal may be allowed, and that a transcript of record, proceedings,

and papers upon which said order was made, duly authenticated, may be sent to the Supreme Court of the United States.

Dated this 27 day of January A. D. 1906.

F. H. BUSBEE,
CLAUDIAN B. NORTHROP,
Attorneys for Plaintiff.

Allowed.
THOS. R. PURNELL,
United States Judge.

Dated January 31st, 1906.

3 *Assignment of Errors.*

Filed Jan'y 31st, 1906.

In the Circuit Court of the United States for the Eastern District of North Carolina, at Raleigh.

SOUTHERN RAILWAY COMPANY, a Corporation, Complainant,
vs.
FRANKLIN MCNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGfield, and The Greensboro Ice and Coal Company, a Corporation, Defendant.

Assignment of Errors.

Plaintiff prays an appeal from the final decree of this court to the Supreme Court of the United States, and assigns for error:

I.

That the Court erred in not holding that the orders of the Corporation Commission of North Carolina, dated October 31, 1903 and December 10, 1903 directing Southern Railway Company to place four cars of coal upon the private siding or trestle of the Greensboro Ice and Coal Company at Greensboro, North Carolina were void on the ground that said orders were made by the North Carolina Corporation Commission, a body purporting to exercise legislative, executive and judicial functions contrary to the Constitution of North Carolina and contrary to the Constitution of the United States, both of which constitutions prescribe that legislative, executive and judicial functions should be forever seperate.

II.

Because the court erred in not holding and in not decreeing that the Act of the General Assembly of the State of North Carolina entitled "An Act to establish the North Carolina Corporation Commission," Public Acts, North Carolina 1899, Chap. 164, is,
4 with its amendments, unconstitutional and void because said act and its amendments purport to create North Carolina Corporation Commissioner a "Court of Record" and also clothe

e "Court of Record" with legislative and executive functions in
olation of the Constitution of the State of North Carolina and in
olation of the Constitution of the United States.
Wherefore, appellant prays that said decree may be modified so as
declare and adjudge North Carolina Corporation Commission an
iconstitutional body.

CLAUDIAN B. NORTHROP,
F. H. BUSBEE,
Attorneys for Appellant.

Order Allowing Appeal.

Filed Jan'y 31st, 1906.

the Circuit Court of the United States for the Eastern District of North Carolina, at Raleigh.

SOUTHERN RAILWAY COMPANY, a Corporation, Complainant,
vs.
ANKLIN MCNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGfield, and The Greensboro Ice and Coal Company, a Corporation, Defendants.

Order Allowing Appeal.

Now, to-wit: on the 31st day of Jan'y 1906 it is ordered that the peal of the plaintiff in the above stated case be allowed as prayed and that this case be certified to the Supreme Court of the United ates, and that citation be issued returnable to said Supreme Court the United States, on the 2nd day of March, not exceeding thirty ys from this date.
Let the appellant also enter, within ten days from this date into nd, with at least two sureties to be approved by one of the judges this Court, in the sum of $500.00 conditioned to pay all costs t may accrue on said appeal.

THOS. R. PURNELL,
U. S. Judge, &c.

6 *Appeal Bond.*

Filed Jan'y 31st, 1906.

In the Circuit Court of the United States for the Eastern District of North Carolina, at Raleigh.

SOUTHERN RAILWAY COMPANY, a Corporation, Complainant,
vs.
FRANKLIN MCNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGFIELD, and The Greensboro Ice and Coal Company, a Corporation, Defendants.

Appeal Bond.

Know all men by these presents, that we, Southern Railway Company, as principal, and H. W. Miller as sure*ties*, are held and firmly bound unto Franklin McNeill, Samuel L. Rogers, Eugene C. Beddingfield, or their successors in office, and the Greensboro Ice and Coal Company, or its successors, certain attorneys executors, and administrators, or assigns in the full and just sum of Five Hundred dollars to be paid to the said above mentioned obligees, their certain successors, attorneys, executors, administrators or assigns, to which payment well and truly to be made, we bind ourselves, our successors and administrators, joint- and severally, by these presents.

Sealed with our seals and dated this 27th day of January, *A. D.* in the year of our Lord one thousand nine hundred and six.

Whereas, lately at a circuit court of the United States for the Eastern District of North Carolina on the 10th day of April 1905, in a suit pending in said Court, between Southern Railway Company, plaintiff and Franklin McNeill, Samuel L. Rogers, Eugene C. Beddingfield, and the Greensboro Ice and Coal Company, defendants, a decree was rendered against the said defendant- and the said plaintiff having prayed and obtained an appeal from certain provisions of said decree and filed a copy thereof in the clerk's office of the said court to correct the decree in the aforesaid suit, and a citation
7 directed to the said Franklin McNeill, Samuel L. Rogers Eugene C. Beddingfield, and the Greensboro Ice and Coal Company, citing and admonishing them to be and appear at a session of the Supreme Court of the United States to be holden at the city of Washington, on the 2nd day of March next.

Now the condition of the above obligation is such that if the said Southern Railway Company shall prosecute its appeal to effect, and answer all damages and costs if it fail to make its appeal good, then the above obligation to be void; else to remain in full force and virtue.

Sealed and delivered in presence of
SOUTHERN RAILWAY COMPANY, [SEAL.]
By F. H. BUSBEE, *Att'y.*
H. W. MILLER. [SEAL.]

Approved by
THOS. R. PURNELL, *Judge, &c.*
January 31st, 1906.

8 *Citation.*

Filed Jan'y 31st, 1906.

In the Circuit Court of the United States for the Eastern District of North Carolina, at Raleigh.

SOUTHERN RAILWAY COMPANY, a Corporation, Complainant,
vs.
FRANKLIN MCNEILL, SAMUEL L. ROGERS, EUGENE C. BEDDINGFIELD, and The Greensboro Ice and Coal Company, a Corporation, Defendants.

The President of the United States to Franklin McNeill, Samuel L. Rogers, Eugene C. Beddingfield, and The Greensboro Ice and Coal Company, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, at the City of Washington, within thirty days from the date of this writ, pursuant to an appeal duly allowed by the circuit court for the Eastern District of North Carolina, and filed in the clerk's office of said court on the 31st day of Jan'y, A. D. 1906; in a cause wherein Southern Railway Company is appellant, and you are appellees, to show cause if any, why the decree rendered against you as appellees in the said appeal mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States Supreme Court, dated this 31st day of January A. D. 1906.

THOS. R. PURNELL,
Judge, &c.

Service of a copy of the within citation is hereby admitted this 31st day of January A. D. 1906.

R. H. BATTLE,
Of Counsel for Defendants McNeill, Rogers and Beddingfield.

9 UNITED STATES OF AMERICA,
Eastern District of North Carolina.

In the Circuit Court.

I, H. L. Grant, Clerk of the aforesaid Court, do hereby certify that the foregoing is a full, true and correct transcript of the Petition for Appeal, Assignment of Errors, Order allowing Appeal, Appeal Bond and Citation on file in the case of Southern Railway Company *vs.* Franklin McNeill *et al.*

In testimony whereof I have hereunto set my hand and affixed the seal of said court at office in the city of Raleigh, State of North Carolina, this 2nd day of February A. D. 1906.

[Seal United States Circuit Court, Eastern Dist. of N. C.]

H. L. GRANT, *Clerk.*

Endorsed on cover: File No. 20,096. E. North Carolina C. C. U. S. Term No. 594 Southern Railway Company, appellant, *vs.* Franklin McNeill, Samuel L. Rogers, Eugene C. Beddingfield, and The Greensboro Ice & Coal Company. Filed February 12, 1906. File No. 20,096.

FILE COPY.

Office Supreme Court U. S.
FILED
NOV 27 1905
JAMES H. McKENNEY,
Clerk.

370.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1905.

~~(No. 3070)~~

FRANKLIN McNEILL ET ALS.,

MEMBERS OF THE NORTH CAROLINA CORPORATION COMMISSION,

versus

SOUTHERN RAILWAY COMPANY.

MOTION TO ADVANCE.

E. M. UZZELL & CO., PRINTERS, RALEIGH.